

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JAMES MOSELEY,

Plaintiff,

v.

STATE OF WASHINGTON, *et al.*,

Defendants.

Case No. C20-1311-JCC-MLP

ORDER TO SHOW CAUSE

On April 12, 2022, this Court previous struck all deadlines in this matter, pursuant to the parties' stipulated request, pending resolution of Plaintiff's mental health issues precluding his ability to meaningfully participate in preparation of this case for trial. (Dkt. # 25.) On July 20, 2022, the parties' submitted a joint status report ("JSR") representing that Plaintiff's ability to assist in the prosecution of this case still remained indeterminate at that time. (Dkt. # 26.) Based on the parties' representations, this Court authorized the parties to submit an updated JSR by August 22, 2022, advising the Court of Plaintiff's condition and ability to assist in the preparation of this case for trial and proposing a new trial date and pretrial deadlines. (Dkt. # 27.) To date, neither party has filed an update with the Court.

1 It is within the inherent power and discretion of the court to dismiss a civil case for lack
2 of prosecution. Fed. R. Civ. P. 41(b); *see McKeever v. Block*, 932 F.2d 795, 797 (9th Cir. 1991)
3 (failure to prosecute must be unreasonable in order to support dismissal); *Ash v. Cvetkov*, 739
4 F.2d 493, 496 (9th Cir. 1984). The Court weighs five factors to determine if involuntary
5 dismissal for lack of prosecution is proper. *Pagtalunan v. Galaza*, 291 F.3d 639, 642 (9th Cir.
6 2002) (citing *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992)). Specifically, the Court
7 considers: (1) the public's interest in expeditious resolution of litigation; (2) the court's need to
8 manage its docket; (3) the risk of prejudice to the defendant; (4) the public policy favoring
9 disposition of cases on their merits; and (5) the availability of less drastic alternatives. *Id.*
10 Dismissal is proper where at least four factors support dismissal or where at least three factors
11 "strongly" support dismissal. *Beck v. Pike*, 2017 WL 530354, at *5 (W.D. Wash. Feb. 9, 2017)
12 (quoting *Hernandez v. City of El Monte*, 138 F.3d 393, 399 (9th Cir. 1998)).

13 Accordingly, Plaintiff is ORDERED to show cause by **September 9, 2022**, why the
14 Court should not dismiss the complaint in this matter for failure to prosecute. Absent a timely
15 response to this Order, this action will be dismissed without prejudice. The Clerk is directed to
16 send copies of this Order to the parties and to the Honorable John C. Coughenour.

17 Dated this 30th day of August, 2022.

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19 MICHELLE L. PETERSON
20 United States Magistrate Judge
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